

CHAPTER 12

SEPARATIONS

The term *separation* is defined in the *Naval Military Personnel Manual* (MILPESSMAN) as “all means by which an individual may cease to hold the status of a member of the naval service on active duty, except death or desertion.”

The Secretary of the Navy (SECNAV), acting for the President, establishes criteria by which the Navy and Marine Corps may allow voluntary officer and enlisted separations and still maintain a sound officer corps and enlisted community.

The majority of officer and enlisted separations are due either to retirement or release from active duty. When an officer or an enlisted member is separated by either method, it may be effected voluntarily or involuntarily, depending on the circumstances involved. There is a distinct and legal difference between retirement or release from active duty and total separation. Upon retirement or release from active duty, officers and enlisted members continue to be fully subject to naval jurisdiction and orders except only to the extent that jurisdiction is specifically limited by statute. The jurisdiction is limited by law, but the legal status is there.

In this chapter we discuss the various methods of voluntary and involuntary officer and enlisted separations.

OFFICER SEPARATIONS

Once a member has legally accepted a commission or warrant and has executed the oath of office, he or she has acquired a legal status that continues until it is terminated legally. Termination may be accomplished only through a specific legally authorized process. Once a person has become an officer of the naval service under a commission or warrant in the Navy or any Reserve component thereof, that person is then presumed to remain in that office until his or her status as such is shown to have been terminated by a duly constituted governmental authority acting pursuant to law.

Six forms of termination presently authorized by law in officer cases include the following:

- Acceptance of resignation

- Separation for cause
- Revocation of commission
- Dropping from rolls
- Dismissal
- Termination of commission

Separations of officers from the naval service must be approved by SECNAV.

VOLUNTARY

Officers of the Regular Navy and Naval Reserve retain their commissions at the pleasure of the President and no terminal dates are established for their commissions. SECNAV, by virtue of his or her authority to act for the President, prescribes criteria for the voluntary termination of an officer's commission as deemed necessary for the maintenance of a sound corps.

Resignation (Unqualified)

An unqualified resignation is a voluntary separation. An officer who submits an unqualified resignation may want to resign for the following reasons:

- Expiration of statutory service obligation
- Expiration of obligated service
- Change of career intentions
- Interservice transfer
- Selected changes in service obligation
- Retirement
- Discharge of a reservist to become a minister

An officer may also wish to separate for the convenience of the government for reasons such as the following:

- Conscientious objection
- Dependency or hardship
- Officers married to other service members

- Pregnancy or childbirth
- Surviving family member
- Separation of aliens
- Separation to accept public office

Regular Navy officers may usually submit a resignation after they have completed 4 years' commissioned service. If their commissioned service is less than 6 years, they may be required to join the Naval Reserve to complete a total of 6 years. Section 651, Title 10, *United States Code* (USC), provides, among other things, that all persons who become members of the armed forces on or after 10 November 1979 must serve in the armed forces for a total of 6 years. Each person under 26 years of age at the time of entry in the armed forces between 1 February 1978 and 9 November 1979 must serve in the armed forces for a total of 6 years.

Approval of an unqualified resignation is not automatic; it is governed by the needs of the service, including availability of qualified relief. Favorable consideration for resignation normally will be given to an officer who will have no active duty obligated service remaining on the requested detachment date.

An unqualified resignation must be submitted by letter in the format specified in the MILPERSMAN, NAVPERS 15560C, in order to be accepted by SECNAV.

An unqualified resignation, once accepted by SECNAV, carries with it an honorable discharge.

Early Release

Reserve officers who are on active duty for the purpose of fulfilling their military obligation may submit a request to the Bureau of Naval Personnel (BUPERS) for early separation.

There are various reasons for this type of request. One officer may desire early release for timely school enrollment; another may do so because of a personal hardship. Requests for early release under any circumstance must be accompanied by documented evidence to substantiate the reason for the request.

Some of the reasons for which early separation is not authorized are as follows:

- Attendance at night school
- Summer school (part-time sessions)
- Part-time school

- Trade school
- Courses that prepare one for a hobby
- The officer is serving a period of active duty in return for schooling received after being commissioned

Release of an officer to inactive duty varies from time to time and as the needs of the service dictate. Therefore, you should consult the latest instructions and notices for up-to-date requirements.

Retirements

An officer or enlisted member of the Regular Navy has a vested right to retire voluntarily upon completion of at least 30 years of active duty. Requests for voluntary retirement with less than 30 years of active duty will be considered on the basis of the overall needs of the service and the individual cases. Final approval of requests for retirement rests with SECNAV. If an officer qualifies for voluntary retirement by virtue of meeting the time in service, the officer must have a medical examination to determine if any nonincapacitating disabilities exist. If some disabilities do exist, the officer then receives a disability retirement. If no disabilities exist, the officer is voluntarily retired without disability.

INVOLUTARY

An officer may put forth his or her best efforts, but simply not be able to handle the responsibility of a job. The harder the person tries, the more the person bungles. In spite of rigid entrance requirements, it sometimes happens that a person who is not capable of performing the duties receives a commission. This, in many cases, is no direct reflection on the officer; the person is simply in over his or her head. Some fail academically despite their best efforts and others have a personality or physical deficiency that prevents them from doing the job as well as required. Officers who fail to meet the standards of their fellow officers are involuntarily separated.

Resignation (Qualified)

A qualified resignation is an involuntary separation. A qualified resignation is one that indicates there is some stigma, however slight, attached to the resignation that prevents the awarding of an honorable discharge certificate. A qualified resignation, if accepted, usually results in separation with a general discharge certificate.

RESIGNATION FOR THE GOOD OF THE SERVICE.– Resignation of an officer for the good of the service provides a means of separating those few officers who are not considered fit to continue as members of the Navy officer corps. Just as a dishonest policeman reflects adversely on the entire police force, or a troublemaking sailor gives his or her shipmates a bad name, so does one misfit wearing gold cast doubt in the minds of enlisted personnel toward officers in general.

Resignation of an officer for the good of the service is normally accepted when it is known that an officer is guilty of wrongdoing, but where trial by general court-martial may not be warranted.

An officer who elects to resign in this manner receives a discharge characterized as being under conditions other than honorable.

RESIGNATION TO ESCAPE TRIAL BEFORE A GENERAL COURT-MARTIAL.– An officer may be separated instead of trial by court-martial upon the officer's request if charges have been preferred with respect to an offense for which a punitive discharge is authorized.

This form of resignation is submitted by the officer concerned as an alternative to facing trial before a general court-martial. This avoids subjecting himself or herself to the ever-present possibility that such a trial may result in a conviction with an ensuing sentence perhaps extending to dismissal from the naval service and imprisonment. Whenever practical, an officer desiring to submit such a resignation should be given, and should receipt for, a copy of the charges and specifications preferred; or if charges and specifications actually have not been preferred, he or she should be given, and should receipt for, a set of sample charges and specifications alleging offenses for which he or she might be brought to trial. It usually will be required before permitting an officer to resign in this manner, that he or she submit with the resignation a complete, detailed statement in the nature of a confession of the offenses concerned and matters pertaining thereto. A statement by a naval psychiatrist or by a naval medical officer if a psychiatrist is not conveniently available is required setting forth a professional observation and impression concerning the apparent mental and physical condition of the officer submitting the resignation.

This is the only type of resignation acceptable once court-martial charges have been preferred. An officer whose resignation for the good of the naval service and to escape trial before a general court-martial is accepted

will subsequently be awarded a certificate of discharge under other than honorable conditions.

Separation for Cause

Officers who do not maintain required standards of performance or professional or personal conduct may be processed for separation for cause when there is reason to believe that one or more of the following circumstances exist:

- Substandard performance of duty. Inability of an officer to maintain adequate levels of performance or conduct as evidenced by one or more of the following:

Failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade

Failure to achieve or maintain acceptable standards proficiency required of an officer in the member's grade

Failure to properly discharge duties expected of officers of the member's grade and experience

Failure to satisfactorily complete any course of training, instruction, or indoctrination that the officer has been ordered to undergo

A record of marginal service over an extended time as reflected in fitness reports covering two or more positions and signed by at least two reporting seniors

Personality disorders, when such disorders interfere with the officer's performance of duty and have been diagnosed by a physician or clinical psychologist according to regulations

An officer who has been referred to a program of rehabilitation for personal abuse of drugs fails, through inability or refusal, to participate in or successfully complete such a program

Officers in this category are given the opportunity to submit an unqualified resignation and to receive an honorable discharge. They are said to be separated for cause; the cause being that they are either physically or mentally incapable of performing their duties properly, through no fault of their own. Although their separation is an honorable one, they may never again serve as an officer in the armed forces.

- Misconduct or moral or professional dereliction
- Retention not consistent with the interests of national security

- Separation instead of trial by court-martial

Policies and regulations set forth in SECNAVINST 1920.6A are not intended to prevent trial by court-martial when appropriate.

Revocation of Commission

SECNAV may revoke the commission of a Regular Navy officer who holds a permanent appointment above W-4, provided the officer has less than 3 years' continuous commissioned service. Naval Reserve officers and the warrant or chief warrant officers and temporary officers are subject to revocation at any time, regardless of the length of service.

The right to revoke a commission is deliberately held to the junior officer level since the first 3 years of a junior officer's career is a probationary period. Should the officer prove unsatisfactory, the officer may be removed from the naval service with a minimum of red tape.

Using fitness reports, recommendations from commanding officers (COs), or other sources of information, the Chief of Naval Personnel (CHNAVPERS) may determine whether an officer will be processed for dropping from the rolls, revocation of commission, termination of appointment, or such separation from the naval service as maybe appropriate. COs who have officers attached to their command who, in their opinion, should not retain their status as an officer or should be released from active duty must forward an appropriate recommendation with substantiating information to CHNAVPERS via the chain of command. A special fitness report covering the officer's performance of duty to the date of recommendation must accompany the recommendation as an enclosure. The very nature of the recommendation is adverse and, before forwarding, must be referred to the officer for comment and statement according to *Navy Regulations*, 1990. Before forwarding a recommendation that an officer be released from active duty or separated from the service for cause, it should be determined whether the officer desires to submit a resignation for an appropriate type of discharge. If the officer submits a resignation, whether considered an appropriate type or not, it must be forwarded for consideration together with the CO's recommendation concerning acceptance. Any resignation solicited by either the command or CHNAVPERS must enclose a special fitness report covering the officer's performance of duty to the date of the resignation request. If the officer does not submit a request for resignation, the fact

that the officer was afforded the opportunity and declined to do so must be stated.

In some cases an officer who has been recommended for revocation of commission is entitled to a hearing. If a command recommends to SECNAV that a commission be revoked for the following reasons, the officer is normally not entitled to a hearing:

- Failure to satisfactorily complete a course of instruction that the officer has been ordered to undergo or is a condition to qualifying for promotion, designation, or duty assignment
- Unsatisfactory performance of duty, reported by at least two reporting seniors
- Temperamental unsuitability or unfitness for service as established by a medical examination
- An officer's request for a hearing will normally be granted for any of the following reasons:
 - Failure to support a dependent adequately
 - Violation of any criminal statute
 - Malfeasance in performance of duty
 - Violation of a regulation

The reasons stated in both of the previous groups are not inclusive, but given for general guidance. An officer granted a hearing is merely there in an informal capacity to present a personal version of the problem. Detailed information and guidance for processing officers for separation because of misconduct, unsatisfactory or poor performance of duty, unsuitability, or other conditions that render the continuation of officers in their present status undesirable are contained in SECNAVINST 1920.6A.

Dropping From the Rolls

It has happened on occasion that enlisted members have gone over the hill, remained AWOL for months, finally returned to naval jurisdiction, and, after completing their punishment, have remained in the Navy after a retraining period to serve well, and, but for this one mistake, honorably.

An officer doesn't usually get a second chance for an offense either of this type or for a major civil offense.

Under Sections 1161, 1163, and 6408, Title 10, USC, the President or SECNAV, depending upon the applicable statute, may drop from the rolls of an armed force a Regular or Reserve officer at any time who has

been absent from the place of duty for at least 3 months or who has been sentenced to confinement in a federal or state penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final. There is no elaboration on the type of offense or the length of the confinement awarded.

Action to initiate dropping an officer from the rolls should normally be undertaken by CHNAVPERS or the Commandant of the Marine Corps, on a case-by-case basis, after a finding that one or both of the previous conditions exist, and that the return of the officer to military control for processing for separation for cause under SECNAVINST 1920.6A will serve no useful purpose.

Neither a hearing nor a board of inquiry is required to drop an officer from the rolls. However, the officer considered must be notified of such prospective adverse action (or reasonable efforts must be made to provide such notification if actual notification cannot be made) and provided the opportunity to respond within 30 days of receipt of notification. Upon completion of the dropping from the rolls action, notification will be addressed to the officer concerned. No certificate of discharge is issued upon separation by dropping from the rolls since such service is not characterized. For the purpose of any federal benefit based upon characterization of service, dropping from the rolls must be considered as a discharge under other than honorable conditions. Except for members who are absent without authority, members who are entitled to retired pay may not be dropped from the rolls unless they are ineligible to receive their retired pay under authority of subchapter II, chapter 83, Title 5, USC.

Dismissal

Except in time of war, dismissal from the service is done only as the result of sentence by general court-martial. When the sentence includes dismissal and SECNAV approves the action, the Judge Advocate General's office notifies the officer concerned by letter that the officer is thereby dismissed from the service.

In time of war, SECNAV, acting for the President, may dismiss an officer without court-martial. As distinguished from being dropped from the rolls, such an officer may make written application for trial by court-martial on the charges on which the officer was dismissed. If tried and convicted of those charges, however, the officer would probably still be dismissed

and may even be incarcerated. If the officer is found guilty, or if the sentence does not include dismissal or death, SECNAV substitutes an administrative discharge for the dismissal order. If no court is convened to try the dismissed officer within 6 months of the officer's application, an administrative discharge replaces the dismissal.

Dismissal from the service is equivalent to a dishonorable discharge and is the lowest type of separation an officer can receive.

Statutory Retirement

Statutory retirements are made to guarantee youth and vigor in responsible positions and to prevent stagnation in grade. Accordingly, the Navy is governed bylaws that require the retirement of permanent officers and warrant officers after they reach a certain age, fail selection for promotion, complete a certain number of years of service, or a combination thereof. Statutory retirements require no application from the officer concerned as they are handled administratively by BUPERS. The statutory retirement age for permanently commissioned Regular officers in the grade of ensign and above is 62 years. Those officers who fall into this category are retired on the first day of the month following the month in which they attain age 62. An officer with a grade above rear admiral who has reached age 62, may, at the discretion of the President, be retained on active duty until the officer attains age 64. However, the number of officers in this status may not exceed 10 on active duty at any given time. The health of an officer has a bearing on the circumstances of retirement. If an officer is disabled and cannot perform the duties of office, the person will be retired with disability, regardless of age or length of service. Statutory service retirements for officers are contained in Section 1251, Title 10, USC.

Disability Retirement

Section 1201, Title 10, USC, states the statutory authority for retirement of personnel of the Navy and Naval Reserve for service-connected disabilities. Under this law, a member maybe permanently retired or placed on the temporary disability retired list (TDRL) dependent upon a determination that the disability that necessitates retirement is, or may be, of a permanent nature. Final determination as to entitlement to disability retirement benefits rests with SECNAV.

The law governing physical disability retirement and separations states that:

- officer and enlisted personnel of the Regular Navy and Naval Reserve are equally entitled to disability retirement;
- eligibility for disability retirement is based on a combination of degree of disability and years of service; and
- under certain conditions personnel may be separated with severance pay rather than be retired for physical disability.

The basic purpose of the law is to provide a means of separating from active service those personnel who are physically unfit for further duty. One of the key provisions is that no member may be separated or retired for physical disability without an opportunity of a full and fair hearing if the member so desires.

Conditions that must be met for placement on the TDRL are contained in the *Disability Evaluation Manual*, SECNAVINST 1850.4.

DISPOSITION.— Pending findings of a physical evaluation board (PEB), an enlisted person may be ordered home (if not outside the continental United States [CONUS]) in a home-awaiting-orders status until such time as SECNAV determines final disposition of the disability. During this process, enlisted members are ordered home by their COs. Officers, however, may be ordered home only by CHNAVPERS while awaiting SECNAV disposition.

It is not mandatory that a member be placed in an awaiting-orders status as, under certain conditions, it might be expedient and proper to retain the member while waiting for final action. Final action on PEB proceedings that involve retirement is normally completed within 30 days after the hearing is completed. When a member has been in an awaiting-orders status for 60 days and either retirement orders or other directives from CHNAVPERS have not been received, the CO of the member concerned should request information from CHNAVPERS as to the current status of the case. The member concerned should be cautioned to request advice from the activity holding his or her records when no word is received within the 60-day period.

The records and accounts of personnel who have been placed in an awaiting-orders status should be retained by the responsible activity until final action has been taken and disposition is directed by CHNAVPERS. You may have occasion to process a person who is being ordered home in an awaiting-orders status. Before the person departs, be sure you complete all portions of the

separation processing that require the member's presence. This is necessary in the event SECNAV subsequently directs separation or retirement of the member, as it will prevent the necessity of the individual returning to his or her command for final processing. The final step can then be accomplished through the mail. Once disability retirement is approved, CHNAVPERS issues orders placing the member on the appropriate retired temporary or permanent list.

TEMPORARY DISABILITY RETIRED LIST.— The TDRL is in the nature of a pending list for all members who, through due process of medical procedures, have been found unfit to perform the duties of their office, grade, rank or rating and who, according to accepted medical principles, may be permanently disabled. In this sense the list provides a safeguard in the best interests of the government against permanently retiring a member who may subsequently recover fully, or nearly so, from the disability that originally caused the person to be placed on this list. Also, the list provides a safeguard in the best interests of the member from being permanently retired with a condition that may develop into a more serious disability that is permanent. CHNAVPERS will issue orders to a member on the TDRL to appear at a medical activity for periodic physical examinations. The medical activity at which a periodic physical examination is to be conducted is designated in each case by the Chief, Bureau of Medicine and Surgery and is the activity nearest the residence of the member concerned with proper Facilities for conducting the examination. Upon completion of the medical examination, the CO of the examining activity is requested to forward the medical record and a summary of the findings of the medical board in the case, with special reference to the physical condition for which the member was retired, to the Physical Review Council, Navy Department, Washington, DC.

PAPER WORK INVOLVED WITH OFFICER SEPARATION

Processing an officer for separation involves a vast amount of paper work and certain procedures must be accomplished. To help you to accomplish and complete the smooth separation of officers, the Personnel and Administration Assistance Team, Atlantic developed the Officer's Separation Procedure Sheet/Checklist. This is a step-by-step procedure of actions required before and after separation and also contains the references pertaining to the different actions. If properly used, this procedure sheet/checklist can be a valuable tool in the

proper separation of officer personnel. The procedure sheet/checklist is contained in the *Officer Transfer Manual*, NAVPERS 15559, appendix A.

ORDERS FOR SEPARATION

Separation orders for officers will be final orders and are issued only by CHNAVPERS or SECNAV. Specific types of orders may be issued in the field, but only with authorization from CHNAVPERS or SECNAV.

Final endorsements are required for officer separations. Commands must use Officer Separation Orders (Final Endorsement), NAVPERS 1920/14, for officer separation orders. This form is designed to account for most situations involved in separating an officer. Should a situation occur that is not indicated on NAVPERS 1920/14, commands may use block 49 of NAVCOMPT 3067, Detaching (Departing) Endorsement to Orders - (Officer - Enlisted) (OCR), to annotate a paragraph that should apply to the situation. When block 49 of NAVCOMPT 3067 is used, make sure a copy of the NAVCOMPT 3067 is attached to NAVPERS 1920/14.

DISCHARGE CERTIFICATES

Officers who have been totally separated from the naval service, with certain infrequent exceptions, are entitled to one of the following types of discharge certificates:

- Honorable
- General
- Discharge Under Conditions Other Than Honorable

Officers separated from the service by dismissal pursuant to sentence of general court-martial should not be awarded a certificate of any of the types of discharges listed previously. Their only separation document should be a letter signed by SECNAV, or by an authority to whom SECNAV has lawfully delegated the function, informing the officer concerned of his or her trial, conviction, sentence, departmental action upon and approval of the sentence, and fact of dismissal. This is the lowest type of separation from the naval service. It is now officially in all respects equivalent to a dishonorable discharge.

The foregoing certificates are issued by the Navy Department only. Under no circumstances should a ship or station issue any form of certificate of discharge to a

member separated from the service as a warrant or commissioned officer.

ENLISTED SEPARATIONS

The policy of the Navy is to promote readiness by maintaining high standards of conduct and performance. To maintain high standards of conduct and performance it is necessary to provide, in a variety of circumstances, for the orderly and expeditious administrative separation of naval personnel. There are several reasons for this: namely, to make sure the Navy is served by individuals capable of meeting required standards of duty, performance, and discipline; to maintain standards of performance and conduct through appropriate separation and characterization of service that emphasizes the traditional concept of honorable military service; and to achieve authorized force levels and grade distributions.

In general, some of the formal reasons for separation of enlisted personnel are discussed in the following paragraphs. Procedures, additional reasons covering defective enlistments and inductions, entry level performance and conduct, unsatisfactory performance, misconduct, drug abuse and rehabilitation failure, and alcohol abuse and rehabilitation failure are discussed in detail in the MILPERSMAN.

SELECTED CHANGES IN SERVICE OBLIGATION

CHNAVPERS may authorize or direct the separation of enlisted personnel due to selected changes in service obligation. Some of these changes might involve general demobilization, reduction in authorized strength, or an order applicable to all members of a class of personnel specified in the order. Other changes might involve the acceptance of an active duty commission or permanent appointment or acceptance into a program leading to an active duty commission or appointment in any branch of the armed forces. Another change might involve immediate enlistment or reenlistment.

EXPIRATION OF ENLISTMENT, FULFILLMENT OF SERVICE OBLIGATION, OR EXPIRATION OF TOUR OF ACTIVE SERVICE

Unless voluntarily or involuntarily retained beyond normal expiration of term of service as provided in the MILPERSMAN or applicable directives issued by SECNAV or CHNAVPERS, enlisted and inducted members of the Regular Navy or Naval Reserve are

separated or released from inactive duty at certain times. These include the following:

- Upon normal date of expiration of enlistment, extension of enlistment, or period of induction, provided the member does not have an additional service obligation
- At the fulfillment of service obligation acquired under the provisions of the Military Selective Service Act, provided no portion of the contractual enlistment or extension thereof remains to be served
- At the completion of the period of active obligated service or period of such service as voluntarily or involuntarily extended
- Within 30 days of the normal date of expiration of enlistment, extension of enlistment, fulfillment of service obligation acquired under the provisions of the Military Selected Service Act, or normal date of completion of period of active obligated service

FOR CONVENIENCE OF THE GOVERNMENT

CHNAVPERS may authorize or direct the separation of enlisted or inducted members before the expiration of enlistment or other obligated service for any one of the reasons listed as follows:

- Some Navy personnel and their families will encounter hardships. Upon the request of the member and concurrence of CHNAVPERS, separation may be directed when genuine hardship exists. The criteria and format for a request for hardship discharge we contained in the MILPERSMAN.

A written request for a separation hardship should be addressed to the appropriate special court-martial convening authority (SPCMCA). In unusual circumstances, members in an authorized leave status may submit requests for dependency of hardship discharge. To expedite the procedure, the nearest naval activity should submit a properly prepared request to the appropriate SPCMCA with the assisting command's synopsis included in its endorsement. All requests must be accompanied by affidavits substantiating the hardship claim. Where practical, one affidavit should be submitted from the family member(s) concerned. The preparing activity should immediately inform the member's parent command of the pending request and ask for a leave extension, if orders as delineated in the *Enlisted Transfer Manual*, NAVPERS 15909D, chapter 18, may be used.

- A member who is unable to perform duties assigned, who is repetitively absent, or who is unavailable for worldwide assignment or deployment due to parenthood may be separated under this provision.

- A member maybe separated within 3 months of the expiration of enlistment to attend an instruction of higher education, college, university, vocational, or technical school. The Deputy CHNAVPERS is the separation approving authority and not the member's CO.

- A member, on active duty or inactive duty, may not be separated on the basis of pregnancy or childbirth unless it is determined to be in the best interest of the service member or if the member demonstrates overriding and compelling factors of personal need that warrant separation.

Additional reasons such as conscientious objection, surviving son or daughter, failure to meet physical readiness standards (obesity/physical readiness test [PRT]), and other designated physical or mental conditions are discussed in the MILPERSMAN.

PHYSICAL DISABILITY

A member not physically qualified by reason of physical disability means that a member is unable to perform the duties of his or her rate in such a manner as to reasonably fulfill the purpose of the member's employment on active duty.

Members on inactive duty may be separated by reason of physical disability upon determination that they are not physically qualified to perform the duties of their rating on active duty in the Naval Reserve by reason of disease or injury.

Members who have been found to be physically not qualified for active duty or retention in the Naval Reserve should not be involuntary discharged upon the expiration of their enlistment, or enlistment as extended, until the action pertaining to the resolution of their physical status is completed. When the members' enlistment, or extension of enlistment, expires before their physical status is resolved, members may be administratively retained in the service beyond the expiration date with their consent. If a member does not consent to the retention, the member's discharge should be executed in the normal manner and an entry made on the Administrative Remarks page of the service record denoting the member's desire to be discharged in lieu of retention as herein authorized.

IN LIEU OF TRIAL BY COURT-MARTIAL

A member may be separated in lieu of trial by court-martial upon the member's request if the charges have been preferred with respect to an offense for which a punitive discharge is authorized in the Maximum Punishment Chart, appendix 12, *Manual for Courts-Martial*, 1984, and the member's CO determines that the member is unqualified for further naval service under the guidance contained in MILPERSMAN 3610200.

This provision may not be used as a basis for separation when Rules of Court-Martial (R.C.M.) 1003(d) of the *Manual of Courts-Martial*, 1984, provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial authorized to adjudge a punitive discharge.

A request for administrative separation under other than honorable conditions in lieu of trial by court-martial does not prevent or suspend disciplinary proceedings in a case. Whether such proceedings will be held in abeyance pending final action on a request for discharge is a matter to be determined by the officer exercising general court-martial jurisdiction over the member concerned. As a condition precedent to approval of the request, the member, if serving in paygrade E-4 or above, must also request administrative reduction to paygrade of E-3. Upon approval of the request for separation in lieu of trial by court-martial, such member will be reduced to paygrade E-3 by his or her request.

HOMOSEXUALITY

Homosexuality is incompatible with naval service. The presence in the naval environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct seriously impairs the accomplishment of the naval mission. The presence of such members adversely affects the ability of the Navy to maintain discipline, good order, and morale; foster mutual trust and confidence among service members; guarantee the integrity of the system of rank and command; facilitate assignment and worldwide deployment of service members who frequently must live and work under close conditions affording minimal privacy; recruit and retain members of the Navy; maintain the public acceptability of the Navy; and prevent breaches of security.

The basis for separation may include preservice, prior service, or current service conduct or statements. Preservice or prior service conductor statements should be processed according to the MILPERSMAN. A member will be separated under homosexuality if one or more of the approved findings listed in the MILPERSMAN are made.

FLEET RESERVE

The Fleet Reserve is composed of enlisted members who have served in the Regular Navy and the Naval Reserve and who may, in the event of a national emergency or war, be recalled to active duty without additional training.

Personnel who have completed 20 years of active service may submit a request using Application for Transfer to the Fleet Reserve, NAVPERS 1830/1, for transfer to the Fleet Reserve not less than 6 months and not more than 1 year before the desired date of transfer. All Fleet Reserve transfers are effective on the last day of the month.

An effective date of transfer to the Fleet Reserve may be held in abeyance if the member is in any of the following circumstances:

- In a disciplinary status
- Serving a sentence of a court-martial
- Awaiting civil action
- Awaiting an administrative discharge
- Under medical treatment (member must signify his or her consent by signing a page 13 entry)

COs may defer transfer to the Fleet Reserve up to 30 days beyond the date authorized only when urgent operational commitments demand the member's service. When deferment is effected for this reason, a full report of the circumstances should be forwarded by message to CHNAVPERS, with an information copy to the appropriate type commander.

Transfer of a person to the Fleet Reserve means you will close out the record and open a Fleet Reserve record that will be kept by the Commanding Officer, Naval Reserve Personnel Center, New Orleans, Louisiana.

A fleet reservist is required to do the following:

- Be ready for active service in time of war or national emergency

- Keep the Commanding Officer, Naval Reserve Personnel Center informed of member's current address
- Inform the Commanding Officer, Naval Reserve Personnel Center if the member plans to reside outside of CONUS in excess of 30 days
- Promptly answer all official correspondence
- Make known to proper authority any change in health that may prevent the member from performing active duty
- Subject himself or herself to all laws, regulations, and orders governing the Navy
- Perform no more than 2 months' active duty each r-year period so ordered
- Be physically examined at least once every 4 years

Once in the Fleet Reserve, you are entitled to medical and dental care. Although excluded from dental care, except in remote areas, your dependents are also entitled to medical care. Fleet reservists are eligible for hospitalization in a Department of Veterans Affairs (DVA) hospital.

Members of the Fleet Reserve are subject to the *Uniform Code of Military Justice (UCMJ)* and may not be discharged without their consent, except by sentence of a court-martial.

ADMINISTRATIVE SEPARATION (DISCHARGE)

The Navy separation policy strengthens the concept that military service is a calling different from any civilian occupation. Enlisting in the Navy involves a commitment to the United States, to one's service, and to one's fellow citizens and service members that one will complete successfully a period of obligated service. Early separation for failure to meet required standards of performance or discipline violates that commitment.

When persons enter the naval service, the Navy invests substantial resources in their training, equipment, and related expenses. Separation before completion of a period of obligated service represents a loss of that investment while requiring increased accessions. Conversely, retaining individuals in the naval service who will not or cannot conform to naval standards of conduct, discipline, and performance creates a high cost in terms of pay, administrative efforts, degradation of morale, and substandard mission

performance. Both situations represent an inefficient use of limited defense resources. Therefore, every reasonable effort must be made to identify in a timely manner members who exhibit a likelihood for early separation and either improve those members' chances of retention through counseling, retraining, and rehabilitation, or separate promptly those members who do not demonstrate potential for further useful naval service.

Administrative processing is mandatory for members involved in homosexuality, drug trafficking, one incident of drugs for E-4 and above, commission of a serious offense involving sexual perversion, and felony convictions or a conviction for a felonious offense. If a member is sentenced by a civil court to more than 6 months' confinement, regardless of suspension or probation, the command should consider processing for separation.

The MILPERSMAN, NAVPERS 15560C, lists the formal bases for separation and reasons for processing for administrative separation.

NOTIFICATION PROCEDURES

When commands process personnel for administrative separations/discharge, strict compliance with the policies and procedures set out in the articles in the MILPERSMAN are mandatory to guarantee speedy processing, safeguarding of the member's rights, and avoidance of future litigation. One of the primary reasons for delays in directing final action on administrative separations (discharges) is the failure of commands to process a case properly. Unfamiliarity with processing policies and procedures is a major factor in delayed and drawn-out cases. Members should be processed for all reasons for which they qualify.

When preparing an administrative separation, the CO must give the member a letter of notification procedure. (See the MILPERSMAN for the correct format.) If any reason for separation, set forth in the Notice of Notification Procedure Proposed Action, requires processing under the administrative board procedure, the entire matter should be processed under that procedure. (See the MILPERSMAN for guidance.)

When processing a member for administrative separation, there are three very important procedural requirements that must be followed:

Notice. The member should be notified in writing of the basis for administrative processing by his or her CO.

Counsel. A member has the right to consult with qualified counsel when the notification procedure is initiated.

Response. The CO should allow a reasonable period of time of not less than 2 working days for the member to respond to the notice. An extension may be granted upon a timely showing of good cause by the member.

All separation recommendations must be signed by the CO or acting CO and not by direction.

ADMINISTRATIVE BOARD PROCEDURE

If a member being processed for administrative separation is entitled, and elects, to present his or her case before a board, strict compliance with the provisions of the MILPERSMAN is required. The administrative board procedure should be used to process administrative separations in the following circumstances:

- If a member with 6 or more years of total active and Reserve military service being processed under the notification procedure requests a board
- If the proposed reason for separation requires a board
- If the proposed characterization of service is under other than honorable conditions

When an administrative board is required, the member should be notified in writing by his or her CO. Specific guidelines on the matters that should be covered in the CO's notification letter and the proper format for the Notice of an Administrative Board Procedure Proposed Action are contained in the MILPERSMAN.

If the CO of the member's command does not have SPCMCA and the member desires a board, the following procedure must be used. The CO will give the member the letter of notification and statement of awareness. The next reporting senior with SPCMCA will convene the administrative board. The member's command will forward the case to BUPERS via the convening authority, using a standard letter of transmittal.

Detailed instructions pertaining to the actions of a CO without authority to convene an SPCMCA and the convening authority of an administrative board are outlined in the MILPERSMAN.

The convening authority is responsible for appointing members to an administrative board of at

least three commissioned, warrant, or noncommissioned officers well qualified by reason of grade, leadership, experience, and judicious temperament. The senior member will be appointed as the president of the board. Enlisted personnel appointed to the board should be in paygrade E-7 or above and should be senior to the respondent. Enlisted personnel frocked to E-7 are not eligible for appointment. At least one member of the board should be a lone officer serving in grade O-4 or higher and a majority should be commissioned and/or warrant officers (except that a Staff Corps officer in the grade O-4 or higher may be appointed if the convening authority has no line officer in grade O-4 or higher reasonably available). If the respondent is on active duty when the board convenes, the senior member must be on the active duty list of the service in which the respondent serves.

An officer frocked to grade O-4 is not eligible for appointment to meet the O-4 officer requirement. When no active duty list officer is reasonably available, the convening authority may substitute an officer in the temporary active reserves (TAR) of full-time support (FTS) who has served on continuous active duty for more than 12 months immediately before appointment to the board. An explanation as to why an O4 officer on the active duty list is not reasonably available should be included in the comments of the CO in the letter of transmittal that is forwarded following the conclusion of the administrative board to CHNAVPERS via the convening authority. Care should be exercised in the appointment process to prevent the appearance of any impropriety in the appointment of any board members who may have a preconceived opinion regarding the findings and recommendations to be made relative to a particular respondent's case. To avoid split decisions, the convening authority should not appoint an even number of members to an administrative board.

The convening authority may appoint a nonvoting legal advisor who should not be both junior to and in the same direct chain of command as any voting member of the board.

The convening authority also appoints a nonvoting recorder. The recorder is to be an active duty member if the respondent is serving on active duty. As an exception, the convening authority may appoint a Reserve Judge Advocate as recorder for administrative board proceedings.

The recorder is responsible for the clerical and preliminary work of the hearing but is not a member of the board. The recorder conducts a preliminary review of available evidence and, before the hearing, interviews

prospective witnesses after warning them of their rights under Article 31, UCMJ, where appropriate. After consultation with the CO and the president of the board, the recorder notifies the respondent, legal advisor if appointed, essential witnesses as determined by the president and allowed by the convening authority, and counsel as to the time, date, and place of the hearing and of the witnesses expected to be present. Subject to the provisions of MILPERSMAN 3640350, the recorder arranges for the attendance at the hearing of the respondent all witnesses for the government, and military or other essential witnesses for the respondent, and assembles pertinent directives, regulations, and records for use by the board. At the hearing, the recorder presents the case against the respondent and is responsible for preparing the record of the proceedings which should be kept in the summarized form. However, the president of the board, legal advisor, or recorder may request a reporter for making a verbatim record of proceedings as directed by the convening authority or the separation authority. In all cases, the findings and recommendations of the board should be in verbatim form. Before the hearing the recorder should read Articles 3630100 through 3630900 and 3640350 of the MILPERSMAN and NAVMILPERSCOMINST 1910.1.

General Procedural Instructions

The board functions as an administrative rather than a judicial body. Strict rules of evidence need not be observed; however, reasonable restrictions should be observed concerning relevancy and competency of evidence as specified in the MILPERSMAN. The board may refuse to consider further any oral or written matter presented if it is irrelevant, immaterial, or unnecessarily repetitive and cumulative, but no such matter should be rejected or withheld from consideration on the grounds that it would be incompetent for presentation to a court of law. If evidence is classified, the provisions of the *Department of the Navy Information and Personnel Security Program Regulation*, OPNAVINST 5510.IH, should be observed.

Any member of the board or legal advisor maybe challenged only on grounds that show that the member or legal advisor cannot render a fair and an impartial decision. The challenged member or legal advisor may be examined by the respondent's counsel and other members of the board.

No authority exists for the issuance of subpoenas to witnesses in connection with these hearings. Appearance of civilians as witnesses, including

members of the armed forces on inactive duty, may be arranged for, but only on a voluntary basis. Attention is directed to the fact that military personnel on active duty may not be compelled to testify or produce evidence that will incriminate them or be required to answer questions not material to the issue that might tend to degrade them.

Findings and Recommendations

The board should deliberate and vote on its findings and recommendations in closed session. Only voting members of the board should be present during deliberations and voting.

The board must make findings relative to each of the reasons for processing and, if any positive findings are made, a recommendation as to retention or separation, suspension of separation, and characterization of service or description of separation if separation or suspended separation is recommended. If the member is eligible for transfer to the Fleet Reserve, the board should recommend whether he or she should be transferred in the current or next inferior paygrade.

Findings and recommendations must be completed as a report, using the format set forth in the MILPERSMAN. The report must be signed by all members and the counsel for the respondent, or the respondent, if he or she has no counsel. The dissent of any member and the reason(s) must be recorded. The recorder should have the report prepared for completion and signing immediately upon concluding the board.

BENEFITS

COs should make sure members under their command are informed of the benefits provided for members and their families, especially of the provisions and benefits of Servicemen's Group Life Insurance (SGLI), Veterans' Group Life Insurance (VGLI), National Service Life Insurance (NSLI), and the benefits available from the DVA and other government agencies.

Such information should be provided by the command in conjunction with the program of general military training (GMT). Life insurance agents should not be permitted to address or attend meetings, classes, or mass formations, or any other assembly of naval personnel. It is immaterial that such assembly is for other purposes and the agent's appearance is incidental. Major commands should designate one or more benefits and insurance officers who may be commissioned or warrant officers or master, senior, or chief petty officers.

(A major command should be one with 500 or more permanently assigned members unless further defined by the cognizant area coordinator.)

SERVICEMEN'S GROUP LIFE INSURANCE

Public Law 89-214 established the SGLI program (effective 29 September 1965), providing group life insurance for members on active duty for more than 30 days unless they choose (in writing) not to be insured or to be insured for a lesser amount. Through the years, the maximum amount of coverage became \$100,000. Members still have the option of electing no coverage or coverage of lesser amounts in increments of \$10,000.

SGLI protection continues for all members without further payment for 120 days after separation from active duty. If a member is totally disabled on the separation date, coverage continues for 1 year after the separation date or until the insured ceases to be totally disabled, whichever comes first. An extension of coverage for reasons of total disability must be granted by the Office of Servicemen's Group Life Insurance (OSGLI).

VETERANS' GROUP LIFE INSURANCE

The VGLI is a 5-year, nonrenewable term coverage that has no cash, loan, paid-up, or extended values. The VGLI is available to separated or retired members and becomes effective once the OSGLI receives the separation information. VGLI coverage will not become effective before the end of the 120-day free coverage under the SGLI.

The VGLI is available to individuals being released from active duty or active duty for training under calls or orders that do not specify a period of 31 days or less. Reservists insured under part-time coverage who incur a disability or aggravate a preexisting disability while performing active duty or active duty for training under calls or orders specifying a period of 31 days or less or inactive duty training can within a 120-day period following separation apply for VGLI.

To obtain VGLI coverage, an Application for Veterans Group Life Insurance, DVA Form 29-8714, and payment of the first month's premium must be sent to the OSGLI within the 120-day period. For more information about coverage, contact the local DVA office.

NATIONAL SERVICE LIFE INSURANCE

Service Disabled Veterans Insurance (SDVI) is the only NSLI program of insurance currently open to new issues. Any member who is released from active service under other than dishonorable conditions and who is found by the Administrator of Veterans Affairs to be suffering from a disability or disabilities for which compensation would be payable if 10 percent or more in degree, but is otherwise in good health, may apply for insurance within 1 year from the date such service-connected disability was determined by the DVA. Totally disabled personnel may apply for any of the NSLI plans except for the endowment plans.

NSLI policies basically provide for the waiver of premiums in the event the insured becomes totally disabled for 6 consecutive months before attaining age 65.

DEPARTMENT OF VETERANS AFFAIRS

The DVA is responsible for administering the major veterans programs authorized by Congress. The benefits they administer range from interment assistance to full hospitalization. Retirees are eligible for the same benefits available to those separated or discharged from active service.

The DVA annually publishes *Federal Benefits for Veterans and Dependents*, IS-1, a booklet describing the benefits they administer. Copies may be purchased from the Superintendent of Documents at the U.S. Government Printing office. Also available from your DVA office is *A Summary of Department of Veterans Affairs Benefits*, DVA Pamphlet 27-82-2.

The DVA determines retirees' eligibility for specific benefits. The Navy Department has no control over benefits authorized by law and payable by other government agencies. The percentage of disability determined by the Navy for retirement purposes does not affect the DVA's determination of percentage of disability for DVA benefits. The Navy's only role concerning the DVA is supplying requested information about the retired member's service and pay.

The DVA has regional offices and centers throughout the United States. Contact the nearest DVA office on questions about DVA benefits. A list of DVA offices is included in the *Navy Guide for Retired Personnel and Their Families*, NAVPERS 15891G.

Some of the benefits the DVA is authorized by law are to guarantee home loans, administer the NSLI, SGLI, and VGLI programs, provide medical benefits to

disabled veterans and wartime veterans, administer financial help payable to eligible veterans and their survivors, offer educational assistance to veterans who served after 31 January 1955 and before 1 January 1977, administer the contributory educational assistance programs for veterans who entered active duty on or after 1 January 1977, and administer benefits for deceased veterans and eligible dependents.

SOCIAL SECURITY

Title IV of the Servicemen's and Veterans' Survivor Benefits Act, Public Law 881, 84th Congress, provides wage credits for active military service toward social security benefits. Under this act, on or after 1 January 1957, all members of the Armed Services of the United States performing active duty or active duty for training, including midshipmen at the Naval Academy and NROTC midshipmen and contract students during such periods when they are ordered to active duty for training purposes (summer cruises), come under the contributory coverage Provisions of the Social Security System.

The responsibility of COs is to adequately inform members of their rights and benefits under the Social Security Act and of the procedure for replacement of a social security account number card that has been lost or destroyed. Various Department of Health and Human Services pamphlets on social security for service members and veterans should be distributed to all ships and stations.

Social security benefits for retirement, health insurance, survivors, and disability are earned as a result

of military service and civilian employment covered for social security purposes. To receive monthly benefits for yourself, your family, or for survivors, you must have been in work or self-employment covered by the social security law for a certain length of time. The types of benefits include retirement, disability, and survivors' benefits, as well as benefits that have reduced so they may be paid out over a longer period of time.

Contact the nearest social security office to obtain family members' social security cards, check on earnings records, get information about your obligation under social security, and to apply for benefits. To locate the nearest office, inquire at your post office or look in the telephone directory under Social Security Administration.

U.S. NAVAL HOME

Officers and enlisted members of the United States Navy or United States Marine Corps and those of the United States Coast Guard who have served in that organization while it operated as a part of the Navy may be admitted to the benefits of the Naval Home by authority of CHNAVPERS.

Individuals applying for admission to the Naval Home should be ambulatory and capable of caring for their personal needs and of cleaning their room.

Applications for admission to the Naval Home should be submitted in duplicate and addressed to the Governor, United States Naval Home, 1800 East Beach Boulevard, Gulfport, Mississippi 39507-1597.